IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 8TH JANUARY 2007 / 18TH PAUSHA 1928

WP(C).No. 33028 of 2006(F)

PETITIONER:

SLEEBA @ ALEX, S/O.CHUNKATH JOHNY,
KARAYOOR DESOM, PERAKOM VILLAGE,
CHAVAKKAD TALUK.

BY ADV. SRI.RAJIT

RESPONDENTS:

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1. STATE OF KERALA,
REP. BY THE SECRETARY,
HOME DEPARTMENT, SECRETARIAT,
THIRUVANANTHAPURAM.

2. SUB INSPECTOR OF POLICE,
KUNNAMKULAM POLICE STATION,
KUNNAMKULAM, THRISSUR.

BY GOVERNMENT PLEADER SRI.GIKKU JACOB.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 08/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

R. BASANT, J.

W.P.(C) NO. 33028 OF 2006-F

Dated this the 8th day of January, 2007

JUDGMENT

The grievance of the petitioner is that the Investigating Officer – the 2nd respondent herein, is guilty of absolute lethargy and inaction. The petitioner had filed a private complaint alleging the offences punishable, inter alia, under Secs.468 and 471 of the IPC. It was referred to the police under Sec.156(3) of the Cr.P.C. No proper investigation was conducted. But, a negative final report was filed before the learned Magistrate to report that the offence is undetected. Thereupon, the petitioner approached the learned Judicial Magistrate of the First Class, Kunnamkulam, with a petition under Sec.173(8) of the Cr.P.C. praying that further investigation may be directed. The learned Magistrate by order dated 10/2/2006, a copy of which is produced as Ext.P4, directed further investigation to be conducted.

2. The petitioner is obliged to come to this Court again after a period of 10 months from the date of Ext.P4 order

complaining about the inaction. It is submitted that even in spite of Ext.P4 order, the Investigating Officer did not take any effective action.

3. This writ petition was filed on 11/12/2006. Directions were issued on 12/12/2006 and in pursuance of the same, a statement has been filed by the Investigating Officer, it is submitted. A copy of the same is placed before me. It is submitted that on 14/12/2006 a petition has been filed before the learned Magistrate to forward the crucial documents to the expert for comparison.

4. The learned counsel for the petitioner submits that the Investigating Officer is guilty of gross negligence, lethargy and inaction. In spite of Ext.P4 order dated 10/2/2006, no action was taken for a period of 10 months. To a pointed query by this Court to the learned Public Prosecutor, no satisfactory explanation is offered as to why no action was taken till 14/12/2006. It is evident that steps taken were taken after coming to know of this writ petition filed by the petitioner.

5. I am, in these circumstances, satisfied that the 2nd respondent is not conducting a proper investigation. I am

satisfied that appropriate directions must be issued in the matter.

6. In the result, this writ petition is allowed and the Superintendent of Police, Thrissur, is directed to ensure that proper investigation is conducted into Crime No.120/98 of the Kunnamkulam Police Station by a senior police officer to be designated by the Superintendent of Police, Thrissur. Necessary action shall be taken by the Superintendent of Police, Thrissur, within a period of one month. Every effort shall be taken to expedite the investigation. The Superintendent of Police shall monitor the action taken.

7. The learned Public Prosecutor shall communicate this judgment to the Superintendent of Police, Thrissur.

8. Issue a copy of this judgment to the learned Public Prosecutor.

Sd/-

(R. BASANT, JUDGE)

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//true copy// P.S. To Judge